NATIONAL DIABETES
VOLUNTEER LEADERSHIP COUNCIL

VIA ELECTRONIC SUBMISSION

TO:	Texas House Committee on Insurance
DATE:	September 8, 2020
RE:	HB 2536 Interim Charge 1
SUBMITTED BY:	Erika Emerson, Executive Director National Diabetes Volunteer Leadership Council ebemerson@ndvlc.org (303) 506-6106

The National Diabetes Volunteer Leadership Council (NDVLC) appreciates the opportunity to submit comments to the Texas House Committee on Insurance regarding HB 2536, relating to prescription drug price transparency.

NDVLC is a 501(c)(3) patient advocacy organization comprised of individuals who combine their passion for advocacy with decades of diabetes experience and leadership to advance patients-first policies at the local, state and national levels. Our members – all former leaders of national diabetes organizations – engage policymakers, and public and private sector influencers to call attention to the diabetes epidemic and provide a voice for 34 million Americans living with the disease, including 3.3 million Texans.

It is in this spirit that we submit comments for the Committee to consider as Texas moves forward with implementation of the HB 2536 reporting requirements. We understand the bill addresses prescription drug costs broadly, but many of the medicines commonly prescribed to manage diabetes exceed the $100 per 30-day supply Wholesale Acquisition Cost (WAC) threshold and will be subject to the law's reporting requirements.

NDVLC has reviewed numerous state reporting bills since 2017 when they first emerged in state legislatures. We declined to support any of them, particularly bills that single out a disease state or drug category. Well intended as these bills may be, reporting ultimately amounts to an administrative exercise that does not bring down prescription drug prices. State transparency efforts culminating in a published report or webpage do nothing to help consumers pay less at the pharmacy counter, where it matters most.

As Insurance Committee members are well aware, prescription drug costs – and health costs more broadly – are a national problem. It is difficult for one state, even one the size of Texas, to influence national market dynamics among multiple system players: manufacturers, insurers, plan sponsors, pharmacy benefit managers, pharmacies, providers, third party administrators and more. Even a bill like HB 2536 that includes three large players in the mix only scratches the surface of our nation's uniquely convoluted health care coverage and reimbursement system.

People with diabetes are all too familiar with the pharmacy sticker shocks this system creates, especially when they fill prescriptions for insulin. This lifesaving hormone is an essential medicine for 1 in 3 people with diabetes; rationing can quickly become life threatening, especially for people with type 1 diabetes.

Under HB 2536, Texas will now require manufacturers to annually report WAC, the list price charged to wholesalers or other direct purchasers, not factoring in rebates, discounts or fees. But these proprietary transactions, coupled with the structure of a patient's health benefits, determine what they pay to fill a prescription. Off-invoice discounts for insulin have increased four-fold over the past decade, and now average about 70 percent of list price.

For example, a commonly prescribed analog insulin has a WAC of about $275 per vial. The manufacturer will net about $82.50. What happens to the other $192.50 (or more) depends on a tangle of other factors. The patient's out-of-pocket cost depends on their insurance status and how their health benefits are structured. It could be:

- $0 or a nominal flat co-pay for commercially insured Texans with good preventive coverage, since insulin is an essential component of chronic disease management.

- $300 or more for Texans exposed to list price and mark-ups in high deductible health plans that do not cover insulin and other diabetes management essentials as preventive, which is allowed but not required under federal law.

- $35 for Texans who go outside their health plan and obtain insulin through a manufacturer's assistance program – or for Medicare beneficiaries who enroll in a participating Part D Senior Savings Model plan in 2021, which caps their insulin out-of-pocket costs.

- Nearly free for low income Texans covered by Medicaid or patients at a 340B health center, where insulin costs the state pennies per dose after federally mandated rebates and discounts are applied.

The Texas legislature did attempt to shed some light on the role of rebates and discounts when it included reporting requirements for PBMs and health benefit plan issuers under HB 2536. The question now is what good will this information do once the state has aggregated it and published it online? Will the state build a registry for reporting symptoms or work toward a cure for the underlying disease in the system?

Nevada recently published its third annual diabetes drug cost report, and there has been no measurable change in diabetes patient cost sharing. The Committee on Insurance now must decide whether Texas will continue down the same path or work toward a cure instead.

We already have the bottom line answer we need to address prescription drug affordability: Move away from a rebate-based, reverse insurance system that exposes patients to high list prices rather than discounted plan rates and lower net cost options.

There are several tangible steps states can take to address core issues of affordability, even in the absence of national solutions. For example, rebate pass-through at the point-of-sale for prescription drugs and medical devices, and capped cost sharing for essentials like insulin in state-regulated health plans help put prescription drug coverage on par with office visits, lab tests and other health care services. It also addresses the perverse incentives PBMs and plan sponsors now have to prefer high-WAC, high-rebate products over lower net cost alternatives.

States also can ensure people with or at risk for diabetes in state regulated health plans have comprehensive coverage that keeps all diabetes necessities affordable: prescription drugs, medical devices, software, supplies, services, nutrition and education. This approach shifts the state's investment to cover costs of care and prevention, not complications.

NDVLC works with legislators across the country on common sense, evidence-based bipartisan solutions to health care access and affordability. We welcome the opportunity to meet virtually with members of the Committee to address particulars of HB 2536 or to review our legislative roadmap of state legislative solutions to diabetes care and costs.

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We are the NDVLC

The National Diabetes Volunteer Leadership Council (NDVLC) mission is to convene, collaborate and communicate with the global diabetes network to positively effect change on emerging and evolving issues that impact people with diabetes. NDVLC is comprised of individuals who combine their passion for advocacy with decades of diabetes experience and leadership to advance patients-first policies at the local, state and national levels. Our members – all former leaders of national diabetes organizations – engage policymakers, and public and private sector influencers to call attention to the diabetes epidemic and provide a voice for 30 million Americans living with the disease.

We Know Diabetes

NDVLC leaders draw on decades of personal experience managing our own diabetes or supporting family members and friends managing theirs. We understand the challenges of meeting complex medical needs while navigating insurance barriers that too often get in the way of what's best for individuals with chronic health conditions. Diabetes is a common thread, uniting NDVLC leaders from different backgrounds, professions, geographies and political persuasions. We work together to advance one cause: **Effective, affordable health care and a discrimination-free environment for every person affected by diabetes.**

We Know How to Get Things Done

We combine experience leading national diabetes organizations with professional experience in business, law and government. We are accountants, judges, lawyers, lobbyists, insurance agents, bankers, sales and marketing executives, small business owners, health plan administrators, employers and more. Our diverse backgrounds and areas of expertise help NDVLC examine tough problems from different perspectives and then find consensus solutions. We draw on trusted advisors and our personal and professional networks, convening, collaborating and communicating with individuals and organizations that share our commitment to put patients first.

Work with Us

NDVLC works with policymakers to address the leading drivers of rising outpatient prescription drug costs and eliminate coverage-related barriers to appropriate, affordable, individualized medical care. We work with employers and business groups, advocating for employee health benefit structures that reduce diabetes costs and improve outcomes. Most important, we work with other patient advocates and organizations to help people with diabetes understand and navigate health costs and coverage.

For more information about NDVLC visit ndvlc.org or email info@ndvlc.org